

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

OLIVIA Y., *et al.*

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, *et al.* DEFENDANTS

ORDER

This matter came before the Court on the parties' Joint Motion for Preliminary Approval of Settlement Agreement. The Court has preliminarily reviewed and evaluated the proposed settlement between the Plaintiff Class and the Defendants and finds that it appears to be within the range of reasonableness. Accordingly, the Motion is, for good cause, **GRANTED**. The Court rules, orders, and directs as follows:

1. ***Proposed Settlement.*** The terms of the settlement at issue are embodied in the proposed Settlement Agreement and Reform Plan, and Appendix A – Year 1 Implementation Plan, filed in conjunction with the Joint Motion for Preliminary Approval. Based on the Court's familiarity with this case, which has been pending for three and a half years, the Court believes that this proposed settlement is worthy of the class' consideration, that notice of this proposed settlement should be directed to class members, and that a hearing should be conducted to ascertain whether this settlement meets the standards required for final approval pursuant to Fed. R. Civ. P. 23(e).

Exhibit 2

2. **Hearing.** A hearing shall be held at the James O. Eastland Courthouse, 245 East Capitol Street, Jackson, Mississippi, at 9:30 a.m. on January 4, 2008, to consider whether the proposed settlement is fair, reasonable, and adequate and should receive the Court's final approval pursuant to Fed. R. Civ. P. 23(e).

- (a) Objections by class members to the proposed settlement will be considered if filed in writing with the Clerk of the United States District Court for the Southern District of Mississippi, Jackson Division, on or before December 18, 2007.
- (b) At the hearing, class members may be heard orally in support of or in opposition to the proposed settlement, provided such persons file with the Clerk on or before December 18, 2007, a written notification of their desire to appear personally, briefly indicating (if in opposition to the settlement) the nature of the objection.
- © Counsel for the Class and for Defendants should be prepared at the hearing to respond to objections filed by class members and to provide other information, as appropriate, bearing on whether or not the settlement should be approved.

3. **Notice.** On or before November 27, 2007, Defendants shall, at their sole expense, take the following steps to notify class members of the proposed settlement:

- (a) Defendants shall prepare and mail true and correct copies of the Notice of Proposed Settlement in *Olivia Y., et al. v. Barbour, et al.*, attached hereto ("Notice to Class Members"), postage prepaid, by first class mail to all of the following persons/locations, with an accompanying letter signed by

Executive Director Don Taylor that gives notice of the settlement and directs that the Notice to Class Members be prominently and immediately posted in the location(s) in which it is most likely to be seen by foster children and their legal representatives, and that the notice remain posted until January 4, 2008:

- I) Each DFCS county office, regional office, and state office;
- ii) Each group home, congregate living facility, institution, and facility in which children in DFCS custody are placed;
- iii) Each agency with which DFCS contracts for the provision of foster care services and/or other services for class members;
- iv) The judges and clerks of each Youth Court in the State of Mississippi;
- v) The judges and clerks of each Chancery Court in the State of Mississippi with jurisdiction over custody, placement, or parental rights with respect to class members;
- vi) Each person who serves as a Guardian Ad Litem with respect to any class member;
- vii) Each person who has been approved as of the date class notice issues to serve as a foster parent, putative adoptive parent, or legal guardian, or to otherwise act *in loco parentis* for any class member; and
- viii) Each class member who has attained or will attain the age of fourteen (14) years on or before the date class notice issues.

- (b) Defendants shall send by first class mail copies of this Order, the Notice to Class Members, and the proposed settlement agreement to any member of the Mississippi public who requests it within five (5) business days of receiving the request.
- (c) Defendants shall prominently post this Order, the Notice to Class Members, and the proposed settlement on the Mississippi DHS Web site and shall maintain that posting until further order from the Court.
- (e) Defendants will file with the Court on or before December 4, 2007, an affidavit certifying compliance with the notice requirements of this Order.
- (f) On or before December 18, 2007, Defendants will supply Class Counsel with an alphabetical list (including name and all available contact information) of all persons who, according to Defendants' records, appear to be current class members.

So **ORDERED** this 8th day of November, 2007.

/s/Tom S. Lee
United States District Court Judge